

BOARD OF PHARMACY
MINUTES
NOVEMBER 28, 2006

CONDUCTING:	Roger Fitzpatrick, Chair
CONVENED:	9:05 a.m.
ADJOURNED:	2:30 p.m.
MEMBERS PRESENT:	Roger Fitzpatrick, Betty Yamashita Marty Hill, public member Dominic DeRose Edgar Cortes Mark Munger Shawna Hanson
DIVISION STAFF:	Diana Baker, Bureau Manager Shirlene Kimball, Secretary Sandra Hess, Division Investigator Jared Memmott, Division Investigator
GUESTS:	Gerry Hassell, Wal-Mart Derek Garn, Wal-Mart Greg Jensen, Target Reid Barker, UPhA

TOPIC OF DISCUSSION:

DECISIONS/RECOMMENDATIONS:

OCTOBER 24, 2006 MINUTES:

Approved with corrections.

DISCIPLINE REPORT – CONNIE
CALL:

Report attached to the minutes. Ms. Call expressed concern that Michael Sanchez is reluctant to meet the terms of his Order. She reported all other probationers are doing fine.

Dr. Munger made a Motion to terminate the probation on Olympus Pharmacy if the controlled substance report comes in favorable. Mr. DeRose seconded the Motion. Mr. Hill was out of the room and did not participate in the vote. All other Board members in favor.

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DISCUSSION ITEMS:

Ms. Hess indicated she recently inspected a compounding pharmacy and requested clarification from the Board regarding labels. The labels from this pharmacy referenced a worksheet with lot numbers and a list of ingredients. According to Rule, the label must include the lot number, all solutions and ingredient names, amounts, strengths and concentrations when applicable, quantity, expiration date and instructions. Ms. Hess indicated the pharmacy had an audit trail of all ingredients in the product. Board members indicated there are times when it is impossible to list all ingredients on the label, but as long as all active ingredients are listed, and as long as there is an audit trail referencing lot numbers and listing every ingredient, solution, and strength, fillers do not need to be listed on the label.

Ms. Hess also had a question regarding durable medical equipment providers and what the inspectors need to be looking for at these types of facilities. Ms. Hess indicated durable medical equipment providers are Class E pharmacies and the only information listed in Rule includes identity of the supervisor; a detailed plan of care; identity of the drugs and devices that will be purchased or stored, and the identity of the health care provider.

Ms. Hess indicated it had been determined that these types of providers can not be home based. Dr. Munger suggested a search of other state laws to see what they require.

Board members indicated that Ms. Hess should place the inspections of these types of facilities on hold for the next month or two until the Board has reviewed additional information. This item will be placed on the agenda for discussion next month.

Dr. Munger reported that ASHP has contacted several Board members regarding last months approval of EXCEPT. He reported ASHP would like to know the mechanisms for approval and why it was approved. He will keep the Board informed of his correspondence with ASHP.

Dr. Munger reported Pfizer is pushing forward a law change in order to stop Kwikmed. Dr. Munger indicated he has been requested to present the Research Study to several different groups.

Dr. Munger also reported he will be attending his last meeting of the NABP/AACP District 7/8 meeting in Ashland Oregon. He indicated another member of the Board will need to begin attending these meetings since his term on the Board will be expiring. He indicated Utah will be sponsoring the October 2008 meeting and the Board needs to start putting the agenda together and determining speakers and topics. He indicated about 45 people attend these meetings. Ms Yamashita suggested several Board members attend the 2007 meeting to gather ideas for the 2008 meeting in Utah.

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WALGREENS PHARMACY
TECHNICIAN PROGRAM - JUDY
NIELSEN, HELEN FUNG, SHANNON
CASTELLANO AND CHRIS
SCALZITTI:

Guests present for the discussion:
Chris Scalzitti, Walgreens
Helen Fung, Walgreens
Shannon Castellano, Walgreens
Troy Nielsen, Walgreens

Mr. Scalzitti submitted a roster of pharmacy technicians currently in the Walgreens program. Ms. Nielsen stated that none of the pharmacy technicians on the list have exceeded the training time limit of one year. She reported there may be two individuals who have been pulled out of the program because he/she failed to pass the examinations. She indicated these individuals have been placed into supportive positions. Board members asked for the PTCB pass rate for all Walgreens' programs. Ms. Fung stated she is not sure the percentage, but can provide that information if necessary. Ms. Nielsen indicated the program conducts a review with those students who have failed the Utah Law examination. Mr. Fitzpatrick requested clarification regarding the reported hire dates listed on the roster submitted today. He questioned if the reported start date is the hire date with Walgreens or if it is the date the individual started the pharmacy technician program? Ms. Nielson reported both. She stated there are 3 individuals who have transferred in from other states and who really have not been in the program for two years. Mr. Fitzpatrick indicated that the roster is confusing and does not provide the Board with the requested information. Ms. Nielson stated that she could amend the report

for better clarity and resubmit the information for the board's review again.

Ms. Fung indicated the program received ASHP accreditation in December 2005. The program is 12-18 months long depending on the State. She indicated that the program meets the state requirement with the most stringent law. Ms. Neilson indicated that the packet checklist indicates the student has 18 months to complete the program, but the Utah students are informed the course must be completed in 12 months. Board members expressed concern that Utah students will be confused and may think they have 18 months to complete the program. Mr. Hill stated that in writing, the program looks good; however, in practice, it does not appear to be working. He stated there is a \$1250 fine to both the program and to the tech if they violate the law. It is not the Board's purpose to impose a fine, however, this has been a frequent occurrence for the students from Walgreens. Board members requested Walgreens resubmit the roster and give the actual first day in the pharmacy and not the hire date and provide names of those individuals not yet licensed and where these students are at in the program.

Dr. Munger stated the following information is still needed: 1). A copy of the final exam. 2). Written protocols and guidelines for the teaching pharmacist, the specific manner in which supervision will be completed and the procedure to verify the accuracy and completeness. 3). Updated list regarding the techs and where he/she is at in the program. Dr.

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Munger requested this information be transmitted electronically within one week. Dr. Munger made a Motion that if the information is received within one week and is appropriate, to approve the program and allow the program to continue. Mr. Hill seconded the Motion. All Board members in favor.

WESLEY REMUND,
PROBATION INTERVIEW:

Mr. Remund stated he had taken his son's Lortab in August to help with pain and had met with Ms. Baker and Ms. Call in response to the positive urine screen. He stated he is now seeing a dentist who will be taking care of his dental problems and hopes that once the dental work is complete, his pain will be alleviated. He indicated his wife monitors his prescription pain medications. His supervisor reported he is doing well. Mr. Remund stated he likes the PIR meetings better than the 12-step meetings he is attending. Mr. Remund appears to be in compliance with the terms and conditions of his Order and his next scheduled meeting will be in February 2007.

JANE PERSINGER,
NEW ORDER:

Mr. DeRose conducted the interview. Division investigators Jay Thornton and Jared Memmott were present during the interview. Ms. Persinger stated she was terminated from the county jail where she had worked for 6 years for theft of a medication. She stated she is currently employed at the University of Utah Pharmacy. She stated Ms. Call reviewed the Order with her and Ms. Persinger stated she understands the terms and conditions of the Order. Ms. Persinger indicated she does not have a drug or alcohol problem and does not abuse prescription medications. She indicated she used poor judgment by

taking the pain medication from her employer after breaking her arm. She stated she has not taken any medications to give to others for their use. Ms. Persinger indicated that she is scheduled for the substance abuse evaluation on December 15, 2006. She stated she has completed 3 hours of continuing education in law and ethics. Dr. Munger recommended that Ms. Call follow Ms. Persinger's compliance and the Board would meet with her October 2007. If she misses submitting her reports, or has a positive urine screen without submitting the appropriate prescription she would be invited to meet with the Board.

CRAIG SMITH, PHARMACY TECH
NEW ORDER:

Dr. Munger conducted the interview. Mr. Smith explained that he owns and manages Smith Drug Company and stated he has keys and access to the pharmacy at any time. Mr. Smith admitted to filling and dispensing prescriptions for friends and family members after hours without the knowledge of the pharmacist. Mr. Smith stated this happened on a holiday in an emergency situation because a pharmacist was not available. Ms. Yamashita questioned whether or not the pharmacists were aware that he was entering the pharmacy and filling these prescriptions without a pharmacist checking the medication before giving it to a patient. He replied that they probably were aware. Mr. Smith was questioned how he will correct, or how he has corrected this situation. Mr. Smith indicated he has a new pharmacist in charge, has hired a part time pharmacist and will make arrangements with the pharmacist to be available after hours or on holidays.

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SMITH DRUG COMPANY,
NEW ORDER:

The Smith Drug Company was also issued a reprimand. It was reported that the security system had problems, and these problems were not addressed in a timely manner. The pharmacy was robbed and about \$20,000 dollars of controlled substances were taken. Mr. Smith stated that this problem has been taken care of.

The pharmacy also did not have a full time PIC. Mr. Smith indicated he was trying to run the pharmacy with part time pharmacists. Also, one pharmacist was supervising more than three pharmacy technicians. Mr. Smith indicated he has hired two additional clerks for cashier work.

Board members stated they feel that Mr. Smith and his pharmacy should have received more than a reprimand and that the Board would have added additional sanctions. Mr. Smith stated he understands.

EMILY ALEXANDER, REQUEST FOR
APPROVAL FROM ENVISION
TELEPHARMACY:

Ms. Alexander met with the Board to explain the proposal for electronic supervision of licensed pharmacy technicians by a licensed pharmacist in rural Utah hospital pharmacies during the absence of an on-site pharmacist. Ms. Alexander indicated that her company, Envision Telepharmacy, presented a pilot program in Texas and is currently operating in Texas. Ms. Alexander indicated her company would like

approval from the Utah Board to offer a similar service in Utah. Ms. Alexander described the process indicating that a licensed pharmacy technician performs the duty, takes an image of the prescription and uploads the image through the web site. The pharmacist reviews the image, and then notifies the pharmacy technician if any correction is needed. A pharmacist is monitoring the secured web site and has access to the patient information. She stated this is not intended for a pharmacy that needs a full time pharmacist. She indicated they will make sure the pharmacy technician to pharmacist ratio is 2 to 1 or 3 to 1. She stated that the pharmacist cannot monitor more than three sites at one time.

Ms. Alexander questioned whether or not Utah would be interested in this program? Board members indicated that the PIC rules would have to be changed and maybe the Statute. However, before the Board would support the change, the Board would like to see data, outcomes, near misses, errors, and availability of hours. A pilot program would need to be developed for Utah. Dr. Munger indicated he would be willing to help with the pilot program. Mr. Hill indicated he is comfortable with the project, Ms. Baker indicated she would need to discuss the issue with the AG's office.

Mr. Hill made a Motion to support a pilot project. After review of outcomes, the Board would need to determine what laws and rules would need to be changed. Mr. Cortez seconded the Motion. All Board members in favor.

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BREAK AT 12:20 P.M.
RECONVENED AT 12:34 P.M.

ALISIA DETERS, PHARMACY TECH
NEW APPLICATION:

Dr. Munger left the meeting at 12:34 p.m.

Ms. Deters met with the Board to discuss her pharmacy technician application. She indicated she trained at Smiths, took the law examination and failed, however continued to work. She stated she was not aware that she could not continue to work and worked for 150 hours after failing the examination. She stated her boss was aware that she failed the exam, but he allowed her to continue to work. Board members indicated since she studied the Pharmacy Practice Act and Controlled Substance Act, she should have been aware that she could not work after failing the examination. She stated she has read the rules but does not remember reading that part of the Rules. Board members recommend she go back and read the Rules. Board members expressed concern that the pharmacist allowed her to continue to work and he should be brought before the Board.

Ms. Deter also indicated yes on the qualifying questionnaire and indicated she was convicted of the illegal consumption of tobacco.

Mr. Hill made a Motion to approve her for licensure. Ms. Hanson seconded the Motion. All Board members in favor.

MICHAEL SANCHEZ,
PROBATION INTERVIEW:

Mr. DeRose conducted the interview. Dr. Brunson's evaluation was reviewed and Dr. Brunson made the following recommendations: intensive

outpatient treatment of Mr. Sanchez' sexual addiction from a Department of Corrections approved sex offender treatment provider (complete a DOC approved sex offender treatment program); participate in a PPG examination as soon as possible and at regular intervals during treatment; work under supervision and submit supervisor reports; complete an approved course in legal and medical ethics and address professional and ethical issues related to his offense; and to participate in a 12-step Sexaholics Anonymous support group.

Mr. Sanchez stated he does not agree with the recommendation, but will do what is necessary to keep his license. Mr. Sanchez stated that his therapist does not have a PPG, but could perform an ABEL evaluation, which he had indicated would provide the same information as the PPG. He stated he would prefer to undergo the ABEL evaluation because it is less invasive and would cost less over time. Ms. Baker indicated she will contact Dr. Brunson and ask him what he recommends. Board members indicated Mr. Sanchez needs to follow the professional recommendation. Mr. Sanchez stated he understands the terms and conditions of his Order.

DEPARTMENT OF HEALTH
REQUEST FOR APPROVAL FOR
STORING DATA FOR THE
CONTROLLED SUBSTANCE DATA
BASE FOR RESEARCH PURPOSES:

Guests present for the discussion:
Steve Davis, DOPL
Marv Sims, DOPL
Christy Poricznik, UDOH
Pamela Clarkson Freeman, UDOH
Rick Leimbach, DTS/Commerce
Randy Fisher DTS/Health
Benjamin Goodrich DTS/Health

Members from the Department of Health and DOPL's Controlled Substance Data Base met with the Board with a proposal to allow the Department of Health access to the controlled substance database information for the purpose of scientific study. Dr. Poricznik stated she is conducting a study that looks at medical examiner death certificates involving controlled substances. She does not have direct access to the controlled substance database, but receives a disk with the downloaded information. She indicated that processing the information is awkward and time consuming, and with over three million records, processing the information takes up a lot of computer space. She would like to have direct access to the server, however, confidentiality and privacy laws regarding this information does not allow the Health Department to have direct access to the information. Mr. Fisher indicated the Department of Health would provide a stand alone computer and Dr. Proicznik would be the only person who would have access. Mr. Hill indicated that the system they described is not a stand alone computer. Mr. Hill suggested they allow Dr. Poricznik to be connected directly to the controlled substance database, with a removable hard drive taken out every day and put in locked area. Mr. Davis indicated they would have to re-write the rules, but for now need to determine if what they are describing can be accepted. Mr. Hill stated he would not accept what is being proposed as a stand alone system.

Mr. Fisher indicated there will be other requests for other database information. Mr. Fitzpatrick indicated the Board is not in a position to vote on this issue today. Mr. Fisher indicated he feels the proposal is secure. Mr. Hill stated there are mechanisms that can be put in to place to secure the data, but they are asking if this meets the criteria of a stand alone system. Mr. Hill made a Motion to disapprove the proposal because it cannot be defined as a stand alone system. Ms. Yamashita seconded the Motion. All Board members in favor.

Board members indicated the Rule will need to be changed. Mr. Fisher indicated that there are several acceptable standards for data sharing, one is from HIPPA. They will bring back a proposal with wording changes in section c and d.

CAMERON TOLLEY,
PROBATION INTERVIEW:

Dr. Brunson's evaluation was reviewed by the Board. He indicated in the evaluation that Mr. Tolley has a tendency to minimize, but he does not appear to have a significant substance abuse problem and is not a threat to the public or himself. Dr. Brunson recommended Mr. Tolley be allowed to return to work under supervision, that he needs to participate in PIR meetings, participate in urine screens, should not be responsible for ordering, disposing pharmaceuticals. Board members also indicated he would need to submit quarterly inventory reports. Dr. Brunson did not recommend therapy and Board members requested a follow-up with Dr. Brunson to determine whether or not additional therapy is needed at this

point. Mr. Tolley stated he would like to return to work as soon as possible and is willing to work under supervision. He stated he is calling CVI everyday as required and stated he understands the terms and conditions of his Order. Ms. Yamashita made a Motion to lift the suspension based the evaluation received from Dr. Brunson. Ms. Hanson seconded the Motion. Discussion: Mr. Hill requested an amendment to the Motion to include the recommendations from Dr. Brunson and submission of quarterly audits. Ms. Yamashita accepted the amendment. All Board members in favor of the motion with the amendments.

PURBA MARIK, REQUESTING AN
EXTENSION ON HIS INTERN
LICENSE:

Mr. Marik's intern license will expire December 13, 2006. He indicated he will have his internship hours completed by that date, but he would not have enough time to go through the examination process. Ms. Yamashita made a Motion to extend the Intern License for six months to allow time for Mr. Marik to take the NAPLEX and MPJE examinations. Mr. Hill seconded the Motion. All Board members in favor.

ROGER FITZPATRICK, CHAIR

DATE

DIANA BAKER, BUREAU MANAGER

DATE